

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DR. MORGAN REYNOLDS on behalf of the
UNITED STATES OF AMERICA,

X

Civil Action
No. 07 CV 4612

Plaintiff / Realtor,

vs.

SCIENCE APPLICATIONS INTERNATIONAL CORP.; APPLIED RESEARCH ASSOCIATES, INC.; BOEING; NuSTATS; COMPUTER AIDED ENGINEERING ASSOCIATES, INC.; DATASOURCE, INC.; GEOSTAATS, INC.; GILSANZ MURRAY STEFICEK LLP; HUGHES ASSOCIATES, INC.; AJMAL ABBASI, EDUARDO KAUSEL; DAVID PARKS; DAVID SHARP; DANIELE VENEZANO; JOSEF VAN DYCK, KASPAR WILLIAM; ROLF JENSEN & ASSOCIATES, INC.; ROSENWASSER/GROSSMAN CONSULTING ENGINEERS, P.C.; SIMPSON GUMPERTZ & HEGER, INC.; S.K. GHOSH ASSOCIATES, INC.; SKIDMORE, OWINGS & MERRILL, LLP; TENG & ASSOCIATES, INC.; UNDERWRITERS LABORATORIES, INC.; WISS, JANNEY, ELSTNER ASSOCIATES, INC.; AMERICAN AIRLINES; SILVERSTEIN PROPERTIES; and UNITED AIRLINES,

**DECLARATION OF
MICHAEL J. VARDARO IN
SUPPORT OF MOTION TO
DISMISS**

Defendants.

X

Michael J. Vardaro, an attorney licensed and admitted to practice in and before the Courts of the State of New York and the Southern District of New York, declares the following pursuant to 28 U.S.C. § 1746:

1. I am associated with the law firm of Zetlin & De Chiara, LLP, attorneys for Defendant Skidmore, Owings & Merrill, LLP (“SOM”). I am fully familiar with the facts stated herein.

2. I respectfully submit this Declaration in support of SOM’s motion, pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure and 31 U.S.C. § 3730(d)(4), which seeks dismissal of the complaint of Relator Dr. Morgan Reynolds on the grounds that: (i) this Court lacks subject matter jurisdiction over the causes of action brought under the False Claims Act because those claims rely on information in the public domain, and Reynolds cannot satisfy the original source requirement of 31 U.S.C. § 3730(e)(4)(B); (ii) Reynolds lacks standing to bring common law claims on behalf of the United States for unjust enrichment, payment by mistake, recoupment of overpayments, and fraud; and (iii) the complaint fails to meet the heightened pleading requirements for allegations of fraud as set forth in FED. R. Civ. P. 9(b). The motion further seeks reasonable attorneys’ fees and expenses on the grounds that Relator’s complaint is frivolous, and seeks such further relief as this Court deems just.

3. Attached as Exhibit “A” is a true and exact copy of Relator’s complaint, dated May 31, 2007.

4. Attached as Exhibit “B” is a true and exact copy of the National Institute of Standards and Technology’s Report known as NCSTAR 1.

5. For the reasons set forth in the Memorandum of Law, and based upon the exhibits attached hereto, SOM respectfully requests that this Court (i) dismiss the complaint as against SOM; (ii) grant attorneys’ fees and expenses to SOM; and (iii) grant such other relief as this Court may deem just.

6. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

Dated: New York, New York
October 8, 2007

Respectfully submitted,

ZETLIN & DE CHIARA, LLP
Attorneys for Defendant
Skidmore, Owings & Merrill, LLP



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